

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Robin Wagoner

Case No. 09-80912

Chapter 13

Social Security No.: xxx-xx-6196

Address: 5509 Old Hillsborough Road, , Durham, NC
27705

Debtor

MOTION FOR AUTHORITY TO SELL REAL PROPERTY

NOW COMES the Debtor, by and through the undersigned attorney, pursuant to Sections 1303 and 363 of the Bankruptcy Code, requesting permission to sell real estate, and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtor has filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on June 3, 2009.
2. This motion is being made so that the Debtor may sell at private sale the subject real property.
3. The Debtor is the owner of certain real property (hereinafter referred to as "said property") located in Durham County in the State of North Carolina and known as 5509 Old Hillsborough Road, Durham NC 27705
4. Said property is listed on Schedule A attached to the Petition filed in this case.
5. On July 7, 2010, the Debtor entered into a contract to sell said property for a price of \$225,000.00. Attached is a copy of the Offer to Purchase and Contract.
6. The sales price represents the fair market value of the property.
7. The proposed sale represents an arms-length transaction between the Debtor and the prospective purchaser(s), namely Diana C. Matthews. The Debtor is not related to the prospective purchaser(s) by blood, marriage or friendship, and has no business connection with the Debtor other than as prospective purchaser(s) of the said property. That the Debtor believe the proposed sale to be in the best interest of the Debtor for the following reason(s):
 - a. The Debtor cannot afford to keep the property.
 - b. The Chapter 13 plan requires the sale of the property.

8. The proposed sale will not affect the ability of the Debtor to successfully complete the Chapter 13 plan.
9. The proposed sale does not adversely affect the interests of the bankruptcy estate.
10. The Debtor intends to retain the net proceeds in an amount not to exceed \$35,000.00 as allowed by the statutory exemption and will pay to the Chapter 13 Trustee any remaining net proceeds.
11. That \$450.00 is the reasonable value of the services provided and to be provided by the undersigned attorney for counseling the Debtor concerning the proposed sale, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, interfacing with real estate agents, the purchasers and the closing attorney for the purpose of answering questions and concerns regarding the effect of the bankruptcy on the sale, extra follow-up to make sure that the ensuing order is obtained and transmitted to the closing attorney in a timely fashion to avoid delaying unnecessarily the projected closing of title. It is anticipated, based on many past experiences, that it will take at least 4 hours of attorney time to attend to said details. The also takes into account the **substantial risk** inherent in all real estate sales situations that undersigned attorney will perform these services and not get paid because, for one reason or another, the sale falls through.

WHEREFORE, the Debtor respectfully prays that the Court allow the said sale of the subject real property, approve payment of the attorney fee through the Debtor's Chapter 13 plan, and grant such other and further relief as to this Court seems just and proper.

Dated: September 1, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz
Edward Boltz
N.C. State Bar No.:23003
1738-D Hillandale Rd.
Durham, N.C. 27705
(919) 286-1695

(Wagoner Robin mts.wpd rev. May 19, 2010)

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CERTIFICATE OF SERVICE

I, Renee Nolte, of the Law Offices of John T. Orcutt, P.C., certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on September 1, 2010, I served copies of the **Motion for Authority to Sell Real**, electronically or when unable by regular U.S. mail, upon the following parties (names and addresses):

Richard M. Hutson, II
Chapter 13 Trustee
Post Office Box 3613
Durham, NC 27702

Bill Browning
Closing Attorney
120 e. Main Street
Durham, NC 27701-

Michael West
Bankruptcy Administrator
Post Office Box 1828
Greensboro, NC 27402

Nc Real Auctions, L. L.C.
Realtor
Diana C. Mathews
1000 Fate Washington Road
Stem, NC 27581-

Robin Wagoner
5509 Old Hillsborough Road
Durham, NC 27705

Diana C. Matthews
Purchaser
5819 Brisbane Drive
Chapel Hill, NC 27514-

All creditors with duly filed claims as indicated on the Trustee's Report of Filed Claims.

/s Renee Nolte
Renee Nolte